

## [COMMITTEE PRINT]

JUNE 12, 1998

**HOMEOWNERS' INSURANCE AVAILABILITY ACT****H.R. 219**

**[Text is a complete substitute for text of H.R. 219, as reported  
by the Subcommittee on Housing and Community Oppor-  
tunity, February 4, 1998]**

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Homeowners’ Insur-  
3 ance Availability Act of 1997”.

**4 SEC. 2. CONGRESSIONAL FINDINGS.**

5 The Congress finds that—

6 (1) the rising costs resulting from natural dis-  
7 asters have placed a strain on homeowners’ insur-  
8 ance markets in many areas, jeopardizing the ability  
9 of many consumers to adequately insure their homes  
10 and possessions;

11 (2) the lack of sufficient insurance capacity  
12 threatens to increase the number of uninsured home-  
13 owners, which, in turn, increases the risk of mort-  
14 gage defaults and the strain on the Federal banking  
15 system;

1           (3) some States have intervened to ensure the  
2           continued availability of homeowners' insurance for  
3           all residents;

4           (4) it is appropriate that efforts to improve in-  
5           surance availability be designed and implemented at  
6           the State level;

7           (5) while State insurance programs may be ade-  
8           quate to cover losses from most natural disasters, a  
9           small percentage of events are likely to exceed the fi-  
10          nancial capacity of these programs and the local in-  
11          surance market;

12          (6) limited Federal reinsurance will improve the  
13          effectiveness of State insurance programs and pri-  
14          vate insurance markets and will increase the likeli-  
15          hood that homeowners' insurance claims will be fully  
16          paid in the event of a large natural catastrophe; and

17          (7) any Federal reinsurance program must be  
18          founded upon sound actuarial principles and priced  
19          in a manner that minimizes the potential impact on  
20          the Treasury.

21 **SEC. 3. PROGRAM AUTHORITY.**

22          (a) IN GENERAL.—The Secretary of the Treasury  
23          shall carry out a program under this Act to make reinsur-  
24          ance coverage available through—

1 (1) contracts for reinsurance coverage under  
2 section 6, which shall be made available for purchase  
3 only by eligible State programs; and

4 (2) contracts for reinsurance coverage under  
5 section 7, which shall be made available for purchase  
6 by purchasers under section 7(a)(1) only through  
7 auctions under section 7(a).

8 (b) PURPOSE.—The program shall be designed to  
9 make reinsurance coverage under this Act available to im-  
10 prove the availability of homeowners' insurance for the  
11 purpose of facilitating the pooling, and spreading the risk,  
12 of catastrophic financial losses from natural disasters and  
13 to improve the solvency of homeowners' insurance mar-  
14 kets.

15 (c) CONTRACT PRINCIPLES.—Under the program  
16 under this Act, the Secretary shall offer reinsurance cov-  
17 erage through contracts with covered purchasers, which  
18 contracts—

19 (1) shall not interfere in private markets;

20 (2) shall minimize the administrative costs of  
21 the Federal Government;

22 (3) shall, in the case of any contract under sec-  
23 tion 6 for eligible State programs, provide coverage  
24 based solely on insured losses within the State of the  
25 eligible State program purchasing the contract; and

1 (4) shall, in the case of any contract under sec-  
2 tion 7 for purchase at auction, provide coverage  
3 based solely on insured losses within the region es-  
4 tablished pursuant to section 7(a) for which the auc-  
5 tion is held.

6 **SEC. 4. QUALIFIED LINES OF COVERAGE.**

7 Each contract for reinsurance coverage made avail-  
8 able under this Act shall provide insurance coverage  
9 against residential property losses to homes (including  
10 dwellings owned under condominium and cooperative own-  
11 ership arrangements) and the contents of apartment  
12 buildings.

13 **SEC. 5. COVERED PERILS.**

14 Each contract for reinsurance coverage made avail-  
15 able under this Act shall cover losses that are proximately  
16 caused by—

- 17 (1) earthquakes;
- 18 (2) perils ensuing from earthquakes, including
- 19 fire and tsunami; or
- 20 (3) tropical cyclones having maximum sustained
- 21 winds of at least 74 miles per hour, including hurri-
- 22 canes and typhoons.

23 The Secretary shall, by regulation, define such natural dis-  
24 aster perils.

1 **SEC. 6. CONTRACTS FOR REINSURANCE COVERAGE FOR**  
2 **ELIGIBLE STATE PROGRAMS.**

3 (a) ELIGIBLE STATE PROGRAMS.—A program shall  
4 be eligible to purchase a contract under this section for  
5 reinsurance coverage under this Act only if the program  
6 is a State-operated program that complies with the follow-  
7 ing requirements:

8 (1) PROGRAM DESIGN.—The program shall be a  
9 State-operated—

10 (A) insurance program that offers coverage  
11 for homes (which may include dwellings owned  
12 under condominium and cooperative ownership  
13 arrangements) and the contents of apartments  
14 to State residents because of a finding by the  
15 State insurance commissioner or other State  
16 entity authorized to make such determination  
17 that such a program is necessary in order to  
18 provide for the continued availability of such  
19 residential coverage for all residents; or

20 (B) reinsurance program that is designed  
21 to improve private insurance markets which  
22 offer coverage for homes (which may include  
23 dwellings owned under condominium and coop-  
24 erative ownership arrangements) and the con-  
25 tents of apartments because of a finding by the  
26 State insurance commissioner or other State

1           entity authorized to make such determination  
2           that such a program is necessary in order to  
3           provide for the continued availability of such  
4           residential coverage for all residents.

5           (2) TAX STATUS.—The program shall be struc-  
6           tured and carried out in a manner so that the pro-  
7           gram is exempt from all Federal taxation.

8           (3) COVERAGE.—The program shall cover only  
9           a single peril.

10          (4) EARNINGS.—The program may not provide  
11          for the redistribution of any part of any net profits  
12          of the program to any insurer that participates in  
13          the program.

14          (5) MITIGATION.—The program shall include  
15          mitigation provisions that require that not less than  
16          10 percent of the net investment income of the State  
17          insurance or reinsurance program be used for pro-  
18          grams to mitigate losses from natural disasters for  
19          which the State insurance or reinsurance program  
20          was established; except that in the case of any State  
21          for which the Secretary has determined, pursuant to  
22          a request by the State insurance commissioner, that  
23          the 10 percent requirement under this paragraph  
24          will jeopardize the actuarial soundness of the State

1 program, this paragraph shall be applied by sub-  
2 stituting “5 percent” for “10 percent”.

3 (6) NEW PROGRAMS.—For any program which,  
4 after January 1, 1998, commences offering insur-  
5 ance or reinsurance coverage described in subpara-  
6 graph (A) or (B), respectively, of paragraph (1), the  
7 program—

8 (A) may not involve cross-subsidization be-  
9 tween any separate property and casualty lines  
10 covered under the program;

11 (B) shall include provisions that authorize  
12 the State insurance commissioner or other  
13 State entity authorized to make such a deter-  
14 mination to terminate the program if the insur-  
15 ance commissioner or other such entity deter-  
16 mines that the program is no longer necessary  
17 to ensure the availability of homeowners’ insur-  
18 ance for all State residents; and

19 (C) shall provide that, for any insurance  
20 coverage for homes (which may include dwell-  
21 ings owned under condominium and cooperative  
22 ownership arrangements) and the contents of  
23 apartments that is made available under the  
24 State insurance program and for any reinsur-  
25 ance coverage for such insurance coverage made

1 available under the State reinsurance program,  
2 the premium rates charged shall be amounts  
3 that, at a minimum, are sufficient to cover the  
4 full actuarial costs of such coverage, based on  
5 consideration of the risks involved and accepted  
6 actuarial and rate making principles, antici-  
7 pated administrative expenses, and loss and  
8 loss-adjustment expenses.

9 (b) TERMS OF CONTRACTS.—Each contract under  
10 this section for reinsurance coverage under this Act shall  
11 be subject to the following terms and conditions:

12 (1) MATURITY.—The term of the contract shall  
13 not exceed 1 year.

14 (2) PAYMENT CONDITION.—The contract shall  
15 authorize claims payments for eligible losses only to  
16 the eligible State program purchasing the coverage.

17 (3) RETAINED LOSSES REQUIREMENT.—The  
18 contract shall pay eligible losses only if the total  
19 amount of insurance claims for losses from covered  
20 perils to properties, which are located within the  
21 State covered by the contract and covered by quali-  
22 fied lines, exceeds the amount of retained losses pro-  
23 vided under the contract (pursuant to section 8(a))  
24 purchased by the eligible State program.



1           (4) MULTIPLE EVENTS.—The contract shall  
2       cover any eligible losses from one or more covered  
3       events that may occur during the term of the con-  
4       tract.

5           (5) TIMING OF ELIGIBLE LOSSES.—Eligible  
6       losses under the contract shall include only insur-  
7       ance claims for property covered by qualified lines  
8       that are paid within the 3-year period beginning  
9       upon the event or events for which payment under  
10      the contract is made.

11          (6) PRICING.—

12               (A) DETERMINATION.—The cost of rein-  
13      surance coverage under the contract shall be an  
14      amount established by the Secretary as follows:

15                   (i) RECOMMENDATIONS.—The Sec-  
16      retary shall take into consideration the rec-  
17      ommendations of the National Commission  
18      on Catastrophe Risks and Insurance Loss  
19      Costs established under section 10 in es-  
20      tablishing the cost, but the cost may not be  
21      less than the amount recommended by the  
22      Commission.

23                   (ii) FAIRNESS TO TAXPAYERS.—The  
24      cost shall be established at a level that is  
25      designed to return to the Federal Govern-

1           ment fair compensation for the risks being  
2           borne by the people of the United States  
3           and that takes into consideration the devel-  
4           opmental stage of empirical models of nat-  
5           ural disasters and the capacity of private  
6           markets to absorb insured losses from nat-  
7           ural disasters.

8                   (iii) SELF-SUFFICIENCY.—The rates  
9           for reinsurance coverage shall be estab-  
10          lished at a level that annually produces ex-  
11          pected premiums which shall be sufficient  
12          to pay the annualized cost of all claims,  
13          loss adjustment expense, and all adminis-  
14          trative costs of reinsurance coverage of-  
15          fered under this section.

16                   (B) COMPONENTS.—The cost shall consist  
17          of the following components:

18                   (i) RISK-BASED PRICE.—A risk-based  
19          price, which shall reflect the anticipated  
20          annualized payout of the contract accord-  
21          ing to the actuarial analysis and rec-  
22          ommendations of the Commission.

23                   (ii) RISK LOAD.—A risk load of an  
24          amount that is not less than the risk-based  
25          price under clause (i).

1 (iii) ADMINISTRATIVE COSTS.—A sum  
2 sufficient to provide for the operation of  
3 the Commission and the administrative ex-  
4 penses incurred by the Secretary in carry-  
5 ing out this Act.

6 (7) REPAYMENT TERMS.—The contract shall  
7 include a condition that requires that, in the event  
8 that a covered purchaser receives payments for  
9 qualifying claims that consist of amounts derived  
10 from obligations issued under section 9(d), such cov-  
11 ered purchaser shall continue to purchase the rein-  
12 surance coverage provided under this Act, in  
13 amounts that are at least as great as those imme-  
14 diately before the Fund was credited with amounts  
15 borrowed under section 9(d), until such borrowed  
16 monies, including interest, are repaid pursuant to  
17 section 9(d)(3)(C).

18 (8) INFORMATION.—The contract shall contain  
19 a condition providing that the National Commission  
20 on Catastrophe Risks and Insurance Loss Costs may  
21 require the State program that is covered to submit  
22 to the Commission all information on the State pro-  
23 gram relevant to the duties of the Commission, as  
24 determined by the Secretary.

1           (9) EXHAUSTION OF COVERAGE.—Each con-  
2       tract shall provide that, if during the term of the  
3       contract the coverage under the contract is ex-  
4       hausted because of payment for losses from a cov-  
5       ered event, the covered purchaser shall have an op-  
6       tion to make a single purchase of identical coverage  
7       for the remaining term of the contract under the  
8       same terms and conditions as the original contract,  
9       at a prorated cost based upon the remaining term.

10          (10) OTHERS.—The contract shall contain such  
11       other terms as the Secretary considers necessary to  
12       ensure the long-term financial integrity of the pro-  
13       gram under this Act.

14   **SEC. 7. AUCTION OF CONTRACTS FOR REINSURANCE COV-**  
15                           **ERAGE.**

16          (a) AUCTION PROGRAM REQUIREMENTS.—The Sec-  
17       retary shall carry out a program to auction contracts for  
18       reinsurance coverage under this Act made available pursu-  
19       ant to section 3(a)(2), which shall comply with the follow-  
20       ing requirements:

21           (1) PURCHASERS.—The auction program shall  
22       provide for auctioning all contracts made available  
23       under this section to private insurers and reinsurers,  
24       State insurance and reinsurance programs, and any  
25       other entities having insurance exposure.

1           (2) REGIONAL AUCTIONS.—The auction pro-  
2       gram shall provide for auctions on a regional basis.  
3       The Secretary shall divide the States into not less  
4       than 6 but not more than 8 regions for the purpose  
5       of holding such regional auctions, which shall in-  
6       clude separate regions for the State of Florida, the  
7       State of California, the East, the South (excluding  
8       Florida), the Midwest, and the West (excluding Cali-  
9       fornia). Auctions for each region shall be conducted  
10      not less often than annually.

11           (3) SALE TO SMALLER ENTITIES.—

12           (A) REQUIREMENT.—The Secretary shall  
13      establish a procedure to be used at each of the  
14      regional auctions that ensures that prospective  
15      purchasers who are smaller entities can bid  
16      against one another for a portion of the con-  
17      tracts made available at the auction.

18           (B) VOLUME.—The portion of contracts  
19      made available through the procedure under  
20      subparagraph (A) shall have an aggregate cov-  
21      erage amount that bears a ratio to the aggre-  
22      gate coverage amount under all contracts made  
23      available at the regional auction that is not  
24      greater than the ratio that the aggregate pre-  
25      mium volume in qualified lines of all smaller en-

1           ties in the region bears to the aggregate pre-  
2           mium volume in qualified lines for all insurers  
3           in the region.

4           (C) UNPURCHASED CONTRACTS.—In the  
5           event that the portion of the contracts made  
6           available through the procedure under subpara-  
7           graph (A) is not completely purchased by small-  
8           er entities, the remaining contracts shall be  
9           available for purchase by all eligible purchasers  
10          in the region.

11          (D) SMALLER ENTITIES.—The Secretary  
12          shall consult with the National Commission on  
13          Catastrophe Risks and Insurance Loss Costs  
14          under section 10 in determining what types of  
15          entities shall qualify as smaller entities for pur-  
16          poses of this paragraph.

17          (4) RESERVE PRICE.—In auctioning a contract  
18          under this section for reinsurance coverage, the Sec-  
19          retary shall set a reserve price as the lowest base  
20          price for that contract, based upon the recommenda-  
21          tions of the National Commission on Catastrophe  
22          Risks and Insurance Loss Costs established under  
23          section 10. The reserve price shall be determined on  
24          the basis of the following components:

1 (A) RISK-BASED PRICE.—A risk-based  
2 price, which shall reflect the anticipated  
3 annualized payout of the contract according to  
4 the actuarial analysis and recommendations of  
5 the Commission.

6 (B) RISK LOAD.—A risk load of an  
7 amount that is not less than the risk-based  
8 price under subparagraph (A).

9 (C) ADMINISTRATIVE COSTS.—A sum suf-  
10 ficient to provide for the operation of the Com-  
11 mission and the administrative expenses in-  
12 curred by the Secretary in carrying out this sec-  
13 tion.

14 (b) CONTRACT TERMS AND CONDITIONS.—Each con-  
15 tract for reinsurance coverage auctioned under the pro-  
16 gram under this section shall include the following terms  
17 and conditions:

18 (1) MATURITY.—The term of each such con-  
19 tract shall not exceed 1 year.

20 (2) TRANSFERABILITY.—The contract shall at  
21 all times be fully transferable and divisible.

22 (3) MULTIPLE EVENTS.—The contract shall  
23 contain the provisions described in section 6(b)(4).

24 (4) THRESHOLD OF COVERAGE.—Each contract  
25 auctioned in a region established under subsection

1 (a)(2) shall provide that the holder of the contract  
2 may receive a payment for losses covered under the  
3 contract if, under a process specified in the contract,  
4 the Secretary determines that the insurance industry  
5 will, as a result of an event or events (in the case  
6 of contracts for multiple events from a covered  
7 peril), incur losses within the coverage area for such  
8 region that are covered by one or more lines of in-  
9 surance under section 5 in an aggregate amount, for  
10 events that occur within a single calendar year,  
11 greater than the level of retained losses specified in  
12 section 8.

13 (5) EXHAUSTION OF COVERAGE.—Each con-  
14 tract shall contain the provisions described in section  
15 6(b)(9).

16 **SEC. 8. MINIMUM LEVEL OF RETAINED LOSSES AND MAXI-**  
17 **MUM FEDERAL LIABILITY.**

18 (a) AVAILABLE LEVELS OF RETAINED LOSSES.—In  
19 making reinsurance coverage available under this Act, the  
20 Secretary shall make available for purchase contracts for  
21 such coverage that require the sustainment of retained  
22 losses (as required under sections 6(b)(3) and 7(b)(4) for  
23 payment of eligible losses) in various amounts, as the Sec-  
24 retary determines appropriate and subject to the require-  
25 ments under subsection (b).



1 (b) MINIMUM LEVEL OF RETAINED LOSSES.—

2 (1) IN GENERAL.—Subject to paragraph (2)  
3 and notwithstanding any other provision of this Act,  
4 a contract for reinsurance coverage under this Act  
5 may not be made available or sold unless the con-  
6 tract requires retained losses in the following  
7 amount:

8 (A) CONTRACTS FOR EXISTING STATE PRO-  
9 GRAMS.—In the case of any contract under sec-  
10 tion 6 for an eligible State program that, upon  
11 January 1, 1998, is offering insurance or rein-  
12 surance coverage described in subparagraph (A)  
13 or (B), respectively, of section 6(A)(1), the  
14 State program shall sustain an amount of re-  
15 tained losses of not less than the greater of—

16 (i) \$2,000,000,000; and

17 (ii) the claims-paying capacity, as of  
18 the date of the enactment of this Act, of  
19 the eligible State program, as determined  
20 by the Secretary.

21 (B) CONTRACTS FOR NEW STATE PRO-  
22 GRAMS.—In the case of any contract under sec-  
23 tion 6 for an eligible State program that, after  
24 January 1, 1998, commences offering insurance  
25 or reinsurance coverage described in subpara-

1 graph (A) or (B), respectively, of section  
2 6(A)(1), the State program shall sustain an  
3 amount of retained losses of not less than the  
4 greater of—

5 (i) \$2,000,000,000;

6 (ii) the claims-paying capacity, as of  
7 the date of the commencement of the pro-  
8 gram under this Act, of the eligible State  
9 program, as determined by the Secretary;  
10 and

11 (iii) an amount, determined by the  
12 Secretary in consultation with the National  
13 Commission on Catastrophe Risks and In-  
14 surance Loss Costs established under sec-  
15 tion 10, which is sufficient to cover eligible  
16 losses in the State during a 12-month pe-  
17 riod for all events having a likelihood of oc-  
18 currence of once every 100 years.

19 (C) AUCTION CONTRACTS.—In the case of  
20 any contract made available under section 7  
21 through a regional auction, the insurance indus-  
22 try in the region for which the auction was con-  
23 ducted shall sustain a cumulative amount of re-  
24 tained losses (in covered lines resulting from  
25 covered perils) of not less than the greater of—

1 (i) \$2,000,000,000;

2 (ii) an amount, determined by the  
3 Secretary in consultation with the National  
4 Commission on Catastrophe Risks and In-  
5 surance Loss Costs established under sec-  
6 tion 10, which is sufficient to cover eligible  
7 losses in the region during a 12-month pe-  
8 riod for all events having a likelihood of oc-  
9 currence of once every 100 years.

10 (2) ANNUAL ADJUSTMENT.—The Secretary  
11 may annually raise the minimum level of retained  
12 losses established under paragraph (1) for an eligible  
13 State program or region to reflect, as determined by  
14 the Secretary—

15 (A) the growth in claims-paying capacity of  
16 the eligible State program; or

17 (B) the growth of capacity in the private  
18 insurance and reinsurance market.

19 (3) CLAIMS-PAYING CAPACITY.—For purposes  
20 of this subsection, the claims-paying capacity of a  
21 State-operated insurance or reinsurance program  
22 under section 6(a)(1) shall be determined by the  
23 Secretary, in consultation with the National Com-  
24 mission on Catastrophe Risks and Insurance Loss  
25 Costs established under section 10, taking into con-

1       sideration retained losses to private insurers in the  
2       State in an amount assigned by the State insurance  
3       commissioner, the cash surplus of the program, and  
4       the lines of credit, reinsurance, and other financing  
5       mechanisms of the program established by law.

6       (c) MAXIMUM FEDERAL LIABILITY.—

7           (1) IN GENERAL.—Notwithstanding any other  
8       provision of law, the maximum amount paid for all  
9       events in any single year by the Secretary pursuant  
10      to claims under all contracts for reinsurance cov-  
11      erage under this Act shall not exceed the applicable  
12      maximum amount for such year determined under  
13      paragraph (2). If, in any single year, claims under  
14      existing contracts for reinsurance coverage exceed  
15      the applicable maximum amount, each claimant shall  
16      receive a prorated portion of the amount available  
17      for payment of claims.

18          (2) APPLICABLE MAXIMUM AMOUNT.—For pur-  
19      poses of paragraph (1), the applicable maximum  
20      amount shall be—

21           (A) for any year not referred to in sub-  
22      paragraph (B), \$25,000,000,000, except that  
23      the Secretary shall annually adjust such  
24      amount (as it may have been previously ad-  
25      justed) to provide for inflation in accordance

1 with an inflation index that the Secretary deter-  
2 mines to be appropriate; or

3 (B) for any year during the 4-year period  
4 beginning on the date that contracts for rein-  
5 surance coverage under this Act are first made  
6 available for purchase, the dollar amount that  
7 the Secretary shall establish and annually re-  
8 vise, which may not in any event exceed  
9 \$25,000,000,000.

10 (d) LIMITATION ON PERCENTAGE OF RISK IN EX-  
11 CESS OF RETAINED LOSSES.—

12 (1) IN GENERAL.—The Secretary may not  
13 make available for purchase contracts for reinsur-  
14 ance coverage under this Act that represent more  
15 than a specified percentage of the risk of insured  
16 losses in excess of retained losses—

17 (A) in the case of a contract under section  
18 6 for an eligible State program, for such State;  
19 and

20 (B) in the case of a contract made avail-  
21 able through a regional auction under section 7,  
22 for such region.

23 (2) DETERMINATION OF PERCENTAGE.—For  
24 purposes of paragraph (1), the specified percentage  
25 shall be—

1 (A) for the 1-year period beginning upon  
2 the date that contracts for reinsurance coverage  
3 under this Act are first made available for pur-  
4 chase, 90 percent; and

5 (B) after the expiration of the period  
6 under subparagraph (A), the specified percent-  
7 age for the previous 1-year period, except that  
8 the Secretary may, in the sole discretion of the  
9 Secretary—

10 (i) reduce such previous percentage by  
11 not more than 5 percent, subject to the re-  
12 quirement under paragraph (3); and

13 (ii) increase the percentage to not  
14 more than 90 percent following any event  
15 or events that result in borrowing under  
16 section 9(d).

17 (3) REPORTING.—The Secretary may not re-  
18 duce the percentage of risk under paragraph  
19 (2)(B)(i) before the Secretary submits a report to  
20 the Congress containing information verifying trans-  
21 actions in the private market that demonstrate an  
22 increase in the capacity of such market sufficient in  
23 the determination of the Secretary to justify such re-  
24 duction.

1           (4) DETERMINATION OF RISK OF INSURED  
2       LOSSES.—For purposes of this subsection, the risk  
3       of insured losses in excess of retained losses shall be  
4       determined by comparison with the maximum liability  
5       amounts for contracts for reinsurance coverage  
6       under this Act under subsection (c).

7   **SEC. 9. DISASTER REINSURANCE FUND.**

8       (a) ESTABLISHMENT.—There is established within  
9       the Treasury of the United States a fund to be known  
10      as the Disaster Reinsurance Fund (in this section referred  
11      to as the “Fund”).

12      (b) CREDITS.—The Fund shall be credited with—

13           (1) amounts received annually from the sale of  
14      contracts for reinsurance coverage under this Act;

15           (2) any amounts borrowed under subsection  
16      (d);

17           (3) any amounts earned on investments of the  
18      Fund pursuant to subsection (e); and

19           (4) such other amounts as may be credited to  
20      the Fund.

21      (c) USES.—Amounts in the Fund may be used only  
22      to the extent approved in appropriation Acts and only for  
23      the following purposes:

1           (1) CONTRACT PAYMENTS.—For payments to  
2 covered purchasers under contracts for reinsurance  
3 coverage for eligible losses under such contracts.

4           (2) COMMISSION COSTS.—To pay for the oper-  
5 ating costs of the National Commission on Catas-  
6 trophe Risks and Insurance Loss Costs established  
7 under section 10.

8           (3) ADMINISTRATIVE EXPENSES.—To pay for  
9 the administrative expenses incurred by the Sec-  
10 retary in carrying out the reinsurance program  
11 under this Act.

12           (4) TERMINATION.—Upon termination under  
13 section 12, as provided in such section.

14           (d) BORROWING.—

15           (1) AUTHORITY.—To the extent that the  
16 amounts in the Fund are insufficient to pay claims  
17 and expenses under subsection (c), the Secretary  
18 may issue such notes and other obligations as may  
19 be necessary to cover the insufficiency.

20           (2) INTEREST RATES.—Any such obligations  
21 shall bear interest at a rate determined by the Sec-  
22 retary, taking into consideration the current market  
23 yields on outstanding marketable obligations of the  
24 United States of comparable maturities.



1           (3) CONDITIONS.—The following conditions  
2       shall apply to any obligations issued under this sub-  
3       section:

4           (A) The total amount of outstanding obli-  
5       gations at any given time shall not exceed the  
6       capacity of the Fund to repay such obligations  
7       within 20 years.

8           (B) The Secretary may issue such obliga-  
9       tions only to such extent and in such amounts  
10      as are provided in appropriation Acts.

11          (C) Any obligations issued under this sub-  
12      section shall be repaid, including interest, from  
13      the Fund and shall be recouped from premiums  
14      charged for reinsurance coverage provided  
15      under this Act.

16      (e) INVESTMENT.—If the Secretary determines that  
17      the amounts in the Fund are in excess of current needs,  
18      the Secretary may invest such amounts as the Secretary  
19      considers advisable in obligations issued or guaranteed by  
20      the United States.

21      (f) PROHIBITION OF FEDERAL FUNDS.—Except for  
22      amounts made available pursuant to subsection (d) and  
23      section 10(g), no Federal funds shall be authorized or ap-  
24      propriated for the Fund or for carrying out the reinsur-  
25      ance program under this Act.

1 **SEC. 10. NATIONAL COMMISSION ON CATASTROPHE RISKS**  
2 **AND INSURANCE LOSS COSTS.**

3 (a) ESTABLISHMENT.—The Secretary shall establish  
4 a commission to be known as the National Commission  
5 on Catastrophe Risks and Insurance Loss Costs (in this  
6 section referred to as the “Commission”).

7 (b) DUTIES.—The Commission shall meet for the sole  
8 purpose of advising the Secretary regarding the estimated  
9 loss costs associated with the contracts for reinsurance  
10 coverage available under this Act and carrying out the  
11 functions specified in this Act.

12 (c) MEMBERS.—The Commission shall consist of not  
13 more than 15 members, who shall be appointed by and  
14 at the discretion of the Secretary, except that the members  
15 shall at all times include at least 4 professional actuaries,  
16 2 representatives of State insurance departments, 2 ex-  
17 perts in the field of disaster modeling, a structural engi-  
18 neer, a meteorologist, and a seismologist.

19 (d) EXPERTISE.—Each member appointed to the  
20 Commission shall be recognized as qualified in a field re-  
21 lated to natural disaster risk assessment or insurance.

22 (e) TREATMENT OF NON-FEDERAL MEMBERS.—  
23 Each member of the Commission who is not otherwise em-  
24 ployed by the Federal Government shall be considered a  
25 special Government employee for purposes of section 202  
26 of title 18, United States Code.

1 (f) COMPENSATION.—Each member of the Commis-  
2 sion who is not an officer or employee of the Federal Gov-  
3 ernment shall be compensated at a rate of basic pay pay-  
4 able for level V of the Executive Schedule, for each day  
5 (including travel time) during which such member is en-  
6 gaged in the performance of the duties of the Commission.  
7 All members of the Commission who are officers or em-  
8 ployees of the United States shall serve without compensa-  
9 tion in addition to that received for their services as offi-  
10 cers or employees of the United States.

11 (g) FUNDING.—

12 (1) AUTHORIZATION OF APPROPRIATIONS.—

13 There are authorized to be appropriated—

14 (A) \$1,000,000 for fiscal year 1999 for the  
15 initial expenses in establishing the Commission  
16 and the initial activities of the Commission, as  
17 determined by the Secretary of the Treasury;  
18 and

19 (B) such additional sums as may be nec-  
20 essary to carry out subsequent activities of the  
21 Commission.

22 (2) OFFSET.—The Secretary shall provide, to  
23 the maximum extent practicable, that an amount  
24 equal to any amount appropriated under paragraph  
25 (1) is obtained from purchasers of reinsurance cov-

1        erage under this Act and deposited in the Fund es-  
2        tablished under section 9. Such amounts shall be ob-  
3        tained by inclusion of a provision for the Commis-  
4        sion's expenses incorporated into the pricing of the  
5        contracts for such reinsurance coverage, pursuant to  
6        sections 6(b)(6)(B)(iii) and 7(a)(4)(C).

7        **SEC. 11. DEFINITIONS.**

8        For purposes of this Act, the following definitions  
9        shall apply:

10            (1) COVERED PERILS.—The term “covered per-  
11        ils” means the natural disaster perils under section  
12        5.

13            (2) COVERED PURCHASER.—The term “covered  
14        purchaser” means—

15                    (A) with respect to reinsurance coverage  
16        made available under a contract under section  
17        6, the eligible State-operated insurance or rein-  
18        surance program that purchases such coverage;  
19        and

20                    (B) with respect to reinsurance coverage  
21        made available under a contract under section  
22        7, the holder of the contract auctioned under  
23        such section.

24            (3) ELIGIBLE STATE PROGRAM.—The term “eli-  
25        gible State program” means a State program that,

1       pursuant to section 6(a), is eligible to purchase rein-  
2       surance coverage made available through contracts  
3       under section 6.

4           (4) QUALIFIED LINES.—The term “qualified  
5       lines” means lines of insurance coverage for which  
6       losses are covered under section 4 by reinsurance  
7       coverage under this Act.

8           (5) REINSURANCE COVERAGE.—The term “re-  
9       insurance coverage under this Act” includes cov-  
10      erage under contracts made available under sections  
11      6 and 7.

12          (6) SECRETARY.—The term “Secretary” means  
13      the Secretary of the Treasury.

14          (7) STATE.—The term “State” means the  
15      States of the United States, the District of Colum-  
16      bia, the Commonwealth of Puerto Rico, the Com-  
17      monwealth of the Northern Mariana Islands, Guam,  
18      the Virgin Islands, American Samoa, and any other  
19      territory or possession of the United States.

20   **SEC. 12. TERMINATION.**

21      (a) IN GENERAL.—Except as provided in subsection  
22      (b), the Secretary may not provide any reinsurance cov-  
23      erage under this Act covering any period after the expira-  
24      tion of the 20-year period beginning on the date of the  
25      enactment of this Act.

1 (b) NEGATIVE BALANCE.—If, upon the expiration of  
2 the period under subsection (a), the Disaster Reinsurance  
3 Fund under section 9 has a negative balance (as deter-  
4 mined by the Secretary taking into account all assets and  
5 obligations of the Fund through such date, including any  
6 premiums owed to the Fund and unearned premium  
7 charges to be paid from the Fund), the Secretary shall  
8 continue to provide reinsurance coverage under this title  
9 until the earlier of—

10 (1) the expiration of the 10-year period begin-  
11 ning upon the expiration of the period under sub-  
12 section (a); and

13 (2) such time as the Fund first attains a bal-  
14 ance that is not less than \$0.

15 (c) REPEAL.—Effective upon the date that reinsur-  
16 ance coverage under this Act is no longer available or in  
17 force pursuant to subsection (a) or (b), this title (except  
18 for this section) is repealed.

19 (d) DEFICIT REDUCTION.—The Secretary shall cover  
20 into the General Fund of the Treasury any amounts re-  
21 maining in the Fund under section 9 upon the repeal of  
22 this title.